



# HM Courts & Tribunals Service

## War Pensions & Armed Forces Compensation Appeals

First-tier Tribunal

[armedforces.chamber@hmcts.gsi.gov.uk](mailto:armedforces.chamber@hmcts.gsi.gov.uk)

## EXPLANATORY LEAFLET

A short guide for users

## **Contents Page**

These notes tell you about appealing to the War Pensions & Armed Forces Compensation Chamber which is part of HMCTS. We explain what happens when the Tribunal hears your case and what steps you can take if you are unhappy with the outcome of your Appeal.

**Page 2** is an introduction to the War Pensions & Armed Forces Compensation Chamber.

**Page 3** explains what Entitlement, Assessment and “Specified Decision” mean in the War Pensions Scheme.

**Page 4** tells you about the Armed Forces Compensation Scheme.

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**Pages 13 to 14** tell you what expenses you can claim.

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These notes are a guide only. They have been published by the HMCTS to explain to you what happens when you make an Appeal to the War Pensions & Armed Forces Compensation Chamber. They do not take the place of the relevant legislation, which is set out in the Pensions Appeal Tribunals Acts, the War Pensions Schemes, the Service Pensions Order, the Armed Forces and Reserve Forces Compensation Scheme, The Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008.

## **Introduction**

The War Pensions & Armed Forces Compensation Chamber is a judicial body, administered by the HMCTS, which is part of the Ministry of Justice. It is completely independent from the Service Personnel and Veterans Agency (SPVA) which is part of the Ministry of Defence.

The Chamber provides an independent hearing of appeals against the SPVA's decisions about the Schemes that provide compensation for injuries and illnesses in the Armed Forces. Appeals are heard by independent tribunal judges sitting with non legal members to advise them on military and medical issues.

Staff in the office of the Chamber are civil servants who support the judges and members and will arrange the hearing.

The War Pensions Scheme was started in 1918 and continues in respect of injuries on or before 5 April 2005. For injuries on or after 6 April 2005 a new Scheme, the Armed Forces Compensation Scheme applies.

The War Pensions & Armed Forces Compensation Chamber only hears appeals in England and Wales. There are separate tribunals in Scotland and Northern Ireland.

Applications for both schemes are made initially to the Service Personnel and Veterans Agency (SPVA). If you are unhappy with their decision you can have appealable matters heard by the tribunal. The tribunal deals with appeals under the schemes as follows:

### **The War Pensions Scheme**

- whether or not you are entitled to a War Pension;
- the percentage at which the SPVA has assessed your disablement.
- whether you are entitled to any allowances e.g. for mobility needs.

### **The Armed Forces Compensation Scheme (AFCS)**

- whether you are entitled to an award under the AFCS; and,
- the amount of the award (the tariff) assessed by the SPVA.

## **What Entitlement, Assessment and Specified Decision Appeals mean in the War Pensions Scheme**

The War Pensions Scheme applies to a member of the Armed Forces that suffered from mental or physical injury or illnesses that occurred on or before 5 April 2005. For conditions that occurred on or after 6 April 2005 the claim is under the Armed Forces Compensation Scheme.

### **Entitlement Appeals**

In an Entitlement Appeal, the main question is whether or not the disablement or death is a result of Service in the Armed Forces. (War Pensions also apply to the Mercantile Marine and civilians in some circumstances.)

Example - Mr X claims that he is disabled as a result of an injury to his left leg during Army Service in 1962. However, the SPVA has rejected his claim because it has not been shown that Mr X's left leg was injured due to Service. The main question for the Tribunal would then be: Was Mr X's left leg injured during Service?

### **Assessment Appeals**

In an Assessment Appeal, the question for the Tribunal is the percentage at which a disablement is assessed. This directly affects the level of payment you will be awarded.

### **Specified Decisions**

A Specified Decision is a decision about additional allowances available under the War Pension Scheme such as Mobility Supplement or Constant Attendance Allowance. The question is whether or not the decision made by the SPVA was correct and in certain circumstances the level of award given.

## **The Armed Forces Compensation Scheme**

The Armed Forces Compensation Scheme (AFCS) applies to a mental or physical injury or illness occurring on or after 6 April 2005. There is a time limit of 5 years to make a claim, with some exceptions for late onset illnesses.

An appeal can be made against a decision about entitlement to an award or about the amount payable under an award.

**Examples on entitlement** Ms Y claims she was injured during a sports match. However, the claim is rejected because the match is not shown to have been officially approved. The main question for the Tribunal would be whether the match was part of Service.

Mr Z claims he suffers from mental health problems that developed 6 years after the end of his Service in the Army. The claim is rejected because there is a normal time limit to claim of 5 years. The main question for the Tribunal is whether the claim was inside the time limits and should it have been considered a late onset condition.

**Example on amount** Mr P claimed for an injured knee. The claim was accepted and an award at level 15 in the Tariff in the Scheme was made. Mr P believes that the disablement is more serious and believes he should be awarded a higher tariff.

## **How to Appeal**

To make an appeal you can request an Appeal Form from the Service Personnel and Veterans Agency (SPVA) or alternatively, write a letter telling them you intend to appeal. Please contact the SPVA directly for further guidance on how to appeal a decision.

When you have returned your form or letter to the SPVA, they will then inform the office of the War Pensions & Armed Forces Compensation Chamber that an appeal has been made.

## **What happens next**

When it receives your appeal, the SPVA will look again at its decision. This is called 'reconsideration' or 'reviewing' the original decision.

## **Example 1 in the War Pensions Scheme**

You appeal against the level at which the SPVA has made an award.

The SPVA reviews its decision and increases the amount at which it has assessed your disablement. However, the increase is less than you believe it should be. The appeal therefore continues.

## **Example 2 in the War Pensions Scheme or the Armed Forces Compensation Scheme**

The SPVA has rejected your application for an award because it considers that your condition is not caused by Service. You appeal and the SPVA then reviews its decision. On review the SPVA now accepts your condition as a condition that has been caused by Service in the Armed Forces. This new decision will cause the appeal to 'lapse' (i.e. automatically end) because you have got everything you claimed.

If the appeal does not lapse as a result of their review, the SPVA will prepare a collection of papers known as the 'Response'.

The papers may include:

- your claim form;
- your letter of appeal or appeal form;
- a record of the reasons for the SPVA's decision on your claim;
- copies of relevant medical documents from your Service;

- copies of relevant medical records after your Service;
- copies of any relevant documents which you sent to the SPVA to support your claim or your appeal; and
- a Medical Certificate about the disablement which you have claimed for, written by a SPVA Medical Adviser.

The Agency will send a copy of these papers to you and to your representative if you have named one. They also send copies to the office of the War Pensions & Armed Forces Compensation Chamber.

### **Replying to the 'Response'**

If you want to, you can reply to the Response by sending a written 'Submission', explaining why you disagree with the facts used to refuse your claim. You should send this submission to the office of the War Pensions & Armed Forces Compensation Chamber and the SPVA no later than one month from the date the Response was issued to you. The address of the office is given at the end of this leaflet.

### **Presenting other written evidence for your Appeal**

If you have further written evidence to support your Appeal you should present it as soon as possible. It is best if you send it to the SPVA first, before the office of the War Pensions & Armed Forces Compensation Chamber list your Appeal for hearing. This gives the Agency the opportunity to consider if it wishes to make a comment – or to reconsider the decision appealed.

If you have received a date for your hearing, send the new evidence to the office of the War Pensions & Armed Forces Compensation Chamber as soon as you can.

There may be difficulties if you wait for the hearing to present new evidence, particularly if the evidence is complicated or long. If you do this, the hearing may be adjourned because:

- there will not be enough time for the Tribunal to study the documents; and
- the SPVA might want their Medical Advisers to give an Opinion on the documents.

### **Arranging the Hearing**

Once it has received the Response from the SPVA, the office of the War Pensions & Armed Forces Compensation Chamber will begin to arrange the hearing. The aim of the office of the War Pensions & Armed Forces Compensation Chamber will be to arrange for your case to be heard as soon as it is practicable.

A Tribunal Judge (a qualified Solicitor) and two non-legal (lay) Members, a Medical Member, and a member with experience in the Armed Forces (a Service Member) will be appointed. These three people will form the Tribunal that will hear your case.

If you have any problems with the way your Appeal is being handled, you can write to the office of the War Pensions & Armed Forces Compensation Chamber. You should explain your difficulty. Although they can give you general information about what is happening and what to expect at the hearing, the office staff cannot give advice on any legal or medical questions. These are for the Tribunal itself to decide.

### **Domiciliary Visit Report**

The Tribunal has the power to arrange a medical examination by one of its Members at your home to prepare a report on your medical condition if a medical or other technical question arises at the Tribunal. The report is normally intended to help the Tribunal decide a case when an appellant is unable to attend in person.

### **Help at the Tribunal**

You can come to your Appeal by yourself, or you may prefer to ask someone to help you or to represent you. If you appoint someone as your Representative, they will have all the rights and powers that you are entitled to. For example, they can call witnesses or question witnesses.

A number of organisations can represent you at the hearing. They are as follows:

The Royal British Legion will act free of charge for the vast majority of appellants. You do not need to be a member of the RBL.

The Royal Air Forces Association will act free of charge for all members of the Armed Forces and their widows and widowers of the RAF.

Other ex-service organisations also provide free representation. Those representing regularly at Tribunals include:

- Combat Stress (The Ex-Services Mental Welfare Society)
- British Limbless Ex-Service Men's Association (BLESMA)
- National Gulf Veterans & Families Association (NGVFA)



If you want someone to represent you, get in touch as soon as possible with the organisation or person you want to help you. Their contact details are given at the end of this leaflet. The organisations can then help you to prepare your case in good time for the hearing. You should also tell the SPVA and the office of the War Pensions and Armed Forces Compensation Chamber that you have a Representative. The Agency will send a copy of the Response to your Representative.

Please remember that the Tribunal is unable to reimburse any costs of representation.

### **If you need a travelling companion to get to the hearing**

If you are not well enough to travel alone to the Tribunal, write to the office of the War Pensions & Armed Forces Compensation Chamber as soon as you receive Notice of the Hearing. You will need to send a note from your doctor that supports what you say.

The office of the War Pensions & Armed Forces Compensation Chamber will then send a railway warrant for you and your travelling companion.

### **Where Appeals are heard**

The War Pensions and Armed Forces Compensation Chamber for **England and Wales** hears appeals from:

- people living in England or Wales at the time the appeal was made; and
- people living outside the United Kingdom.

Hearings are in London, Manchester, Birmingham, Leeds, North Shields, Plymouth and other big cities throughout England and Wales.

People living in Scotland and Northern Ireland should contact the War Pensions tribunals that operate there. Their addresses are given at the end of this leaflet.

### **Before the Hearing**

You will receive a Notice of Hearing from the office of the War Pensions & Armed Forces Compensation Chamber at least 14 days before the date fixed for your hearing.

You will find the atmosphere informal and you will have a good opportunity to put your case to the Tribunal. The Tribunal will see that you get a fair hearing. You should do your best to come.

You may find it helpful to make notes about the main points you want to tell the Tribunal. These notes will also help your Representative.

If you know that because of illness you will not be at the Tribunal, you should tell the office of the War Pensions & Armed Forces Compensation Chamber as soon as possible.

If you live abroad, the Tribunal will normally take place without you. If you want to be there, write to the office of the War Pensions & Armed Forces Compensation Chamber in London (see page 16 for the address). In some circumstances, they may postpone the hearing until you visit the United Kingdom.

You are not entitled to travelling expenses for travel outside the United Kingdom.

### **Arriving at the Hearing**

When you arrive at the location where the hearing is being held, the Clerk to the Tribunal will meet you. The Clerk is there to help the Tribunal run smoothly. If you have any questions you should ask the Clerk.

The Clerk will deal with your claim for expenses and will also explain how the Tribunal hearing room is set out.

If you have a Representative, there will normally be a separate interview room where you can speak privately to your Representative.

When it is time for the hearing to begin, you will be asked to go into the room where the Tribunal is meeting. Your Representative will go with you. You will meet the Members of the Tribunal. The Clerk will probably also be in the room but will not take part in your Appeal.

When you go into the hearing room the person representing the SPVA will also go into the room with you and your Representative. All parties go into the hearing room together. The SPVA Representative is at the Tribunal to help with the facts of the case. He/she has a duty to see that all relevant information is available to the Tribunal.

The hearing process will be relatively informal. You will be sitting next to your Representative, normally at an ordinary table. Facing you will be the Tribunal (the tribunal judge and the other members).

### **The Hearing**

The hearing is your opportunity to explain your case to the Tribunal. The Tribunal Judge will introduce the Members of the Tribunal and the person representing the SPVA. He/she will then explain that:

- the Tribunal is an independent judicial body separate to the SPVA and the Ministry of Defence;
- the Members of the Tribunal have copies of the same papers that the SPVA sent to you; and
- that is all the Tribunal knows about your Appeal until you present your case.

The Tribunal is independent and impartial. It has a duty to make sure the hearing is fair. This means you will have a proper opportunity to explain your case. It is important that you feel that the atmosphere at the hearing allows you to relax and do justice to your case.

The Tribunal's job is to discover the true facts. This means that the Tribunal Members will help and encourage you if you do not have a Representative. It also means that the Members of the Tribunal may ask questions about any aspect of your Appeal. The Tribunal may also want to discuss facts or points of law that affect the Appeal, even if those points have not been raised during the hearing.

The Tribunal Judge will usually ask the Representative of the SPVA to confirm that originals of copied documents are available for inspection, then you or your representative will be asked to put your case.

After that, the Members of the Tribunal and the Representative of the SPVA might want to ask you some questions about your Appeal. The Medical Member of the Tribunal might also want to medically examine you. There are facilities available for him/her to do this in private.

The SPVA Representative and you or your Representative will then be asked if you have any closing comments to make. When everything has been said, the Tribunal will want to discuss the case in private.

Once it has discussed the evidence, the Tribunal will come to a decision. This will normally happen on the same day, but it may take longer if, for example, there is not enough time or your case is complex. You will receive the Tribunal's Decision if made on the day, verbally, and in all circumstances, you will receive it in writing.

If you want a detailed statement of reasons for the Tribunal's Decision (called the 'Reasons for Decision') because, for example, you wish to appeal to the Upper Tribunal, you must contact the office of the War Pensions & Armed Forces Compensation Chamber and ask for a copy within 42 days of the date on which the Tribunal issued its decision.

### **Witnesses**

You can call a witness to support your case at the Tribunal. If you want to do this, please read the following notes.

- Medical witnesses – You must give the office of the War Pensions & Armed Forces Compensation Chamber notice at least seven days before the hearing that a witness will be coming. (See also pages 14 and 15 for more details about expenses). If the Tribunal Judge decides that a medical witness is needed, they may agree to pay their reasonable expenses. (See later).
- Other witnesses – Can be invited by you to support your case. However, there is no power for the Tribunal to pay expenses in respect of other non-medical witnesses.

The Tribunal may request a person to attend as a witness at a hearing, if so, the Tribunal will give the person required to attend 14 days notice of the hearing.

### **Withdrawing your Appeal**

If you decide that you do not want to go on with your Appeal, you must notify and send a written notice of withdrawal to the office of the War Pensions & Armed Forces Compensation Chamber at any time before your hearing. Alternatively you can inform the Tribunal at your hearing if you wish to withdraw your appeal.

Please note if you ask for your appeal to be withdrawn the effect is to end your Appeal permanently; so don't ask for withdrawal if what you want is, for instance, a postponement of the hearing or for the Appeal to be heard in your absence. Notice of withdrawal will not take effect unless the Tribunal consents to this.

There are, however, limited grounds for you to reinstate your appeal after it has been withdrawn, to do this you must apply for your appeal to be reinstated in writing within 28 days of the Tribunal's receipt of your notice of withdrawal or the date of the hearing at which your appeal was withdrawn orally.

### **If you move house**

If you move house after you have made your appeal, send your new address to the office of the War Pensions & Armed Forces Compensation Chamber and the SPVA as soon as possible. If you do not, the notice about your hearing may be sent to the wrong address.

**If you cannot come to the hearing**

If you find out that you will not be able to come to the hearing, write to the office of the War Pensions & Armed Forces Compensation Chamber immediately. You will need to return any railway warrants which have been sent to you.

You must explain why you cannot attend the hearing. If you have a good reason for not going, the Tribunal can decide to put off the hearing until you can go.

If you do not attend the hearing without explanation, the Tribunal may decide to hear your Appeal without you. That is why it is important to inform the office if you cannot come and to explain why.

**Appeals left inactive**

If you do not respond to any requests made or instructions given to you by the tribunal (for example, by not answering letters sent to you) and there is no good reason for this, the tribunal may issue a formal Direction to you. Failure to comply with such a Direction may result in your appeal being Struck Out; this will end the Appeal process.

**If you disagree with the Tribunal's Decision**

If you think that the Tribunal's Decision is wrong in law, you can ask for permission to appeal to the Upper Tribunal.

You can ask for permission to appeal to the Upper Tribunal by writing to office of the War Pensions & Armed Forces Compensation Chamber within six weeks of the Decision. (The Tribunal or President of the War Pensions & Armed Forces Compensation Chamber may agree to extend the deadline for an appeal.) When you ask for permission, you must explain the point of law on which you are appealing.

The Tribunal will review its Decision and may decide to re-make it (usually if there has been a basic error). If the Tribunal refuses you permission to appeal, you can apply direct to the Upper Tribunal. The Tribunal's refusal notice will explain your rights and the steps you need to take.

**If you are given permission to appeal to the Upper Tribunal**

It is your responsibility to take the matter forward. The address of the Upper Tribunal is at the end of this leaflet. You should do so without delay because there is a time limit of one month from the giving of permission for you to notify the Upper Tribunal of your appeal.

If following an appeal to the Upper Tribunal you are still not satisfied, there is a further avenue for appeal to the Court of Appeal in England and Wales, the Court of Session in Scotland or the Northern Ireland Court of Appeal.

### **Travelling to the Hearing & Claiming your Expenses**

The office of the War Pensions & Armed Forces Compensation Chamber will send you a railway warrant if you need one. You are also entitled to any other travelling expenses that you reasonably need to pay to get to the hearing. If you want to claim expenses, you will need to provide receipts with your claim. When you go to the hearing, speak to the Clerk about your travelling expenses.

However, if you need to use a taxi or hire car, please contact the office of the War Pensions & Armed Forces Compensation Chamber for guidance and authorisation. If you do not do this, you may not get any costs incurred back.

### **Living Expenses**

You will be entitled to an allowance for living expenses based on the time you spend away from home. If you believe that you will need to stay overnight before or after the hearing, write to the office of the War Pensions & Armed Forces Compensation Chamber before the hearing and ask for approval.

The office of the War Pensions & Armed Forces Compensation Chamber will not agree to pay for your overnight stay unless it is absolutely necessary. If you do not apply to the office of the War Pensions & Armed Forces Compensation Chamber to get approval for an overnight stay, you may have to pay the cost yourself.

### **Loss of Earnings**

If your Appeal is successful (and in some other cases), you may be entitled to compensation for loss of your earnings while you were at the hearing. To apply for loss of earnings you should contact the Clerk to the War Pensions & Armed Forces Compensation Chamber. You must provide details of your employment with your application.

### **Travelling Companion**

If you need someone with you on your journey because you are ill, that person is entitled to expenses in the same way as you. You will need a medical certificate from your doctor showing that you need a travelling companion because of your state of health.

### **Travelling from Overseas**

If you are travelling to a hearing from outside the United Kingdom, you are only entitled to travelling expenses within the United Kingdom. You will need to provide receipts with your claim. Please remember that the United Kingdom does not include the Isle of Man or the Channel Islands.

### **Medical Witnesses**

If you have decided to call a medical witness to give evidence at the hearing, the following Rules apply to their expenses:

- You must make the claim for their expenses.
- The Tribunal Judge must have provided a certificate to say that a witness was needed at your Appeal. You can apply for a certificate before the hearing if you want, but the Tribunal may only be able to make this Decision on the day after they have heard what your witness has to say.
- The expenses must relate only to your case. This means that the witness will need to provide a detailed statement showing their fees and other expenses for acting as your witness.
- There is a limit to the amount a medical witness can claim for expenses. You can get more information from the office of the War Pensions & Armed Forces Compensation Chamber.

### **Other Witnesses**

You may decide to call other witnesses to give evidence at your hearing. If so, those witnesses will not be entitled to claim travelling or other expenses.

## **USEFUL ADDRESSES**

Please send letters to:

### **For England and Wales**

War Pensions & Armed Forces Compensation  
HMCTS  
5<sup>th</sup> Floor  
Fox Court  
14 Grays Inn Road  
London  
WC1X 8HN

Telephone: 020 3206 0701  
Fax: 020 3206 0702  
Typetalk: 18001 020 3206 0701  
Email: [armedforces.chamber@tribunals.gsi.gov.uk](mailto:armedforces.chamber@tribunals.gsi.gov.uk)

### **For Scotland**

PENSIONS APPEAL TRIBUNAL  
(SCOTLAND)  
George House  
126 George Street  
Edinburgh  
EH2 4HH

### **For Northern Ireland**

PENSIONS APPEAL TRIBUNAL  
(NORTHERN IRELAND)  
3<sup>rd</sup> Floor  
Bedford House  
16-22 Bedford Square  
Belfast  
BT2 7FD



**You can get Appeal Forms from:**

Service Personnel and Veterans Agency  
Norcross  
Blackpool  
Lancashire  
FY5 3WP

Tel: Freeline (UK only) 0800 169 22 77  
or Overseas + 44 1 253 866043

**Appeals against decisions of the War Pensions & Armed Forces Compensation Chamber are heard by:**

Upper Tribunal (Administrative Appeals Chamber)  
5<sup>th</sup> Floor, Rolls Building  
7 Rolls Building  
Fetter Lane  
London  
EC4A 1NL

Tel: 020 7071 5562  
Goldfax: 0870 324 0028  
[www.justice.gov.uk](http://www.justice.gov.uk)

**Representative organisations**

**The Royal British Legion**

Haig House  
199 Borough High Street  
London  
SE1 1AA

General enquires: 08457 725 725  
[www.britishlegion.org.uk](http://www.britishlegion.org.uk)

**BLESMA**

185-187 High Road,  
Chadwell Heath,  
Romford,  
Essex RM6 6NA

Tel: 0208 590 1124  
Fax: 0208 599 2932  
Email: [headquarters@blesma.org](mailto:headquarters@blesma.org)

**Combat Stress**

Tyrwhitt House  
Oaklawn Road  
Leatherhead, Surrey  
KT22 0BX

Tel: 01372 841600

Email: [contactus@combatstress.org.uk](mailto:contactus@combatstress.org.uk)

**National Gulf Veterans & Families Association**

Building E Office 8  
Chamberlain Business Centre  
Chamberlain Road  
HULL  
HU8 8HL  
Tel: 0845 257 4853  
Fax: 01482 808731  
[www.ngvfa.org.uk](http://www.ngvfa.org.uk)

**The Royal Air Forces Association (RAFA)**

Chancel Lane  
Pinhoe  
Exeter  
EX4 8JU  
Tel/Fax: 01392 464445

[Chris.francis@rafa.org.uk](mailto:Chris.francis@rafa.org.uk)  
[www.rafa.org.uk](http://www.rafa.org.uk)